

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

BSD, INC., a California corporation, 21st
CENTURY GROUP, INC., a California
corporation; and YOUSTINE, INC., a
California corporation,

Plaintiff,

vs.

EQUILON ENTERPRISES, LLC, a
Delaware Limited Liability Corporation,
ANABI OIL CORPORATION, a California
corporation and DOES 1 through 100,
Inclusive,

Defendants.

Case No: C 10-5223 SBA

ORDER

Dkt. 30, 42

The parties are presently before the Court on Plaintiffs' Motion for an Order Dismissing Defendant Anabi Oil Corporation, Only Without Prejudice, pursuant to Federal Rule of Civil Procedure 41(a)(2), and Defendant Anabi Oil Corporation's Motion to Dismiss the Complaint or in the Alternative for Summary Judgment. Dkt. 30, 42. The sole issue presented is whether the dismissal of Anabi Oil Corporation ("Anabi") should be with or without prejudice.

"[T]he decision to grant a voluntary dismissal under Rule 41(a)(2) is addressed to the sound discretion of the District Court" Kern Oil Refining Co. v. Tenneco Oil Co., 792 F.2d 1380, 1390 (9th Cir. 1986). However, the "broad grant" of such discretion "does not contain a preference for one kind of dismissal or another." Hargis v. Foster, 312 F.3d 404, 412 (9th Cir. 2002). Here, the Court has considered the arguments presented by the parties and finds, in its discretion, that dismissal without prejudice is appropriate under the circumstances presented. In addition, the Court denies Anabi's request to condition its

1 dismissal without prejudice on the payment of its attorney's fees and costs. See Metro. Life
2 Ins. Co. v. Baythavong, C-00-4697 VRW, 2002 WL 826838, *1 (N.D. Cal. 2002 April 22,
3 2002) (refusing to impose fees and costs on plaintiff in light of dismissal at the early stages
4 of litigation where no discovery has been conducted). Accordingly,

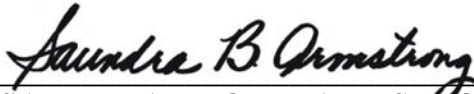
5 IT IS HEREBY ORDERED THAT:

6 1. Plaintiffs' motion to dismiss is GRANTED and the action as to Defendant
7 Anabi is DISMISSED without prejudice. Anabi's motion to dismiss is DENIED as moot.

8 2. This Order terminates Docket 30 and 42.

9 IT IS SO ORDERED.

10 Dated: September 12, 2011


11 SAUNDRA BROWN ARMSTRONG
12 United States District Judge
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